



CELIA ZAVALA
EXECUTIVE OFFICER

COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 383
LOS ANGELES, CALIFORNIA 90012
(213) 974-1411 • FAX (213) 620-0636

MEMBERS OF THE BOARD

HILDA L. SOLIS

MARK RIDLEY-THOMAS

SHEILA KUEHL

JANICE HAHN

KATHRYN BARGER

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

18 June 25, 2019

CELIA ZAVALA
EXECUTIVE OFFICER

June 25, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

RECOMMENDATION TO APPROVE UPDATES TO BOARD POLICY 9.015 - COUNTY POLICY OF EQUITY AND EXTEND SUNSET REVIEW DATE (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

The Executive Office of the Board is requesting approval of updates to Board Policy 9.015, County Policy of Equity, previously adopted and approved by your Board, and extend its Sunset Review date to July 1, 2021.

IT IS RECOMMENDED THAT THE BOARD:

Approve the attached proposed updates to Board Policy No. 9.015 (Policy), County Policy of Equity (CPOE), and extend its Sunset Review date to July 1, 2021.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Background

On May 31, 2011, your Board approved the CPOE and it became effective, Countywide, on July 1, 2011. The CPOE features a lower threshold of unacceptable workplace behavior and a centralized complaint mechanism designed to preserve the dignity, respect, and professionalism of the County workplace. The process also features independent review by a contracted panel of legal experts and a unique system of "checks and balances" to triage, review, and investigate complaints.

Thanks to the continued vision and support of your Board, the CPOE Program has undergone several recent enhancements, and namely augmented complaint reporting accessibility with the launch of a new public-facing complaint portal and website entitled, "ELEVATE: Respect, React,

Report.” Further, it has served as a model to other jurisdictions and namely, the California State Legislature, which has implemented a substantially similar process.

Legally Required Updates to the CPOE

In recent years, there have been a number of changes in the law related to employment discrimination and harassment. Specifically, on June 6, 2017, your Board approved a set of substantive updates to the CPOE as it related to new protected categories codified under the California Fair Employment and Housing Act. Furthermore, the CPOE must now be amended to reflect recent legal changes relating to workplace harassment and sexual harassment pursuant to Senate Bill 1300, which became effective January 1, 2019.

Additional adjustments are also proposed to further streamline the Policy and reduce duplicative references in the spirit of enhanced readability and understanding. Given the recent regularity of legal changes in the area of employment discrimination and harassment, a shortened two-year (rather than a four-year) Sunset Review date of July 1, 2021 is also being proposed to allow for more frequent review of the Policy.

Implementation of Strategic Plan Goals

The recommended action is consistent with principles of the Countywide Strategic Plan, Goal III.1: Continually Pursue Development of Our Workforce, as well as Goal III.3: Pursue Operational Effectiveness, Fiscal Responsibility, and Accountability.

FISCAL IMPACT/FINANCING

There is no anticipated fiscal impact or financing required to update the Policy.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

At its meeting on May 15, 2019, the Audit Committee reviewed and approved the proposed updated Policy, a copy of which is submitted herewith.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the updated Policy will be consistent with legal requirements under the California Fair Employment and Housing Act and will allow for continued successful administration of the CPOE Program, with the goals of protecting the workforce from unlawful discrimination, harassment, retaliation, and inappropriate equity-based conduct, and thereby preventing unnecessary legal exposure to the County.

The Honorable Board of Supervisors

6/25/2019

Page 3

Respectfully submitted,

A handwritten signature in cursive script, reading "Celia Zavala". The signature is written in dark ink and is positioned above the printed name and title.

CELIA ZAVALA

Executive Officer, Board of Supervisors

CZ:vb

Enclosures

c: Chief Executive Office
County Counsel
Director of Personnel



Los Angeles County **BOARD OF SUPERVISORS POLICY MANUAL**

Policy #:	Title:	Effective Date:
9.015	County Policy of Equity	07/01/11

PURPOSE

This Policy is intended to preserve the dignity, respect, and professionalism of the workplace as well as to protect the right of employees to be free from discrimination, sexual harassment, harassment (other than sexual), retaliation and inappropriate conduct toward others based on a state or federal protected characteristic.

Further, the County will not tolerate retaliation for filing a complaint under the Policy or similar state or federal law, for participating in an administrative investigation or proceeding under the Policy, for performing duties under the Policy, or for otherwise opposing conduct prohibited by the Policy.

As a preventive measure, the County will not tolerate inappropriate conduct toward others based on a protected characteristic even if the conduct does not meet the Policy definition of discrimination, retaliation, sexual harassment, or harassment.

Inappropriate conduct toward others, discrimination, sexual harassment, harassment (other than sexual), and retaliation are contrary to the values of the County of Los Angeles. As such, all members of the County workforce are responsible for conducting themselves in accordance with this Policy and its associated Procedures.

Violation of the Policy and/or Procedures will lead to prompt and appropriate administrative action including, but not limited to, counseling, training, written warning, written reprimand, suspension, demotion, or discharge.

Managers, supervisors, co-workers, and third-parties are prohibited from engaging in unlawful behavior under the Fair Employment and Housing Act.

REFERENCE

[May 31, 2011](#), Chief Executive Office and Executive Office, Board of Supervisors:
Approval of County of Los Angeles Policy of Equity

[County of Los Angeles Policy of Equity, July 1, 2011](#)

Department of Human Resources, Policies, [Procedures and Guidelines Number 910](#),
Employees Cooperation in the Administrative Investigations Process

[Los Angeles County Code Chapter 5.09](#), Policy of Equity

June 6, 2017 [Board Order No. 8](#)

Department of Human Resources, Policies, Procedures and Guidelines Number 812,
County Policy of Equity

POLICY

THE POLICY

All members of the Los Angeles County (County) workforce are required to conduct themselves in accordance with the entirety of this County Policy of Equity (Policy), and all applicable local, county, state, and federal laws.

COUNTY POLICY OF EQUITY: PROHIBITED CONDUCT

All members of the County workforce are responsible for understanding and abiding by these definitions of prohibited conduct.

COUNTY POLICY OF EQUITY: PROTECTED CHARACTERISTICS

Age (40 and over)	Ancestry	Color
Ethnicity	Religious Creed (including religious dress and grooming practices)	Denial of family and medical care leave
Disability (including mental and physical disability)	Marital Status	Medical Condition (cancer and genetic characteristics)
Genetic Information	Military and Veteran Status	National Origin (including language use restrictions)

Race	Sex <i>(including pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or breastfeeding)</i>	Gender
Gender Identity	Gender Expression	Sexual Orientation
Any Other Characteristic Protected by State or Federal Law		

SCOPE OF COVERAGE

County Workforce: For purposes of this Policy, County Workforce includes but is not limited to County employees, Commissioners, contractors, applicants for employment, unpaid volunteers and interns, and persons providing services pursuant to a contract. Complaints raised by members of the public, patrons, or otherwise not members of the County workforce may be investigated under the Policy in appropriate circumstances.

Location: This Policy prohibits discrimination, unlawful harassment, retaliation, and inappropriate conduct toward others based on a protected status, whether in the workplace or in an environment with a nexus to the workplace.

Communication System/Equipment: This Policy also applies to the use of any communication system or equipment in the workplace, including but not limited to, electronic mail, internet, intranet, telephone lines, computers, facsimile machines, voicemail, radio, cell phones, and mobile digital terminals.

COUNTY POLICY OF EQUITY: DISCRIMINATION

Discrimination is the disparate or adverse treatment of an individual (based on or because of any of the protected characteristics as delineated in this Policy).

COUNTY POLICY OF EQUITY: HARASSMENT (OTHER THAN SEXUAL)

Harassment is conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, offensive, or abusive work environment (based on or because of any of the protected characteristics delineated in this Policy).

COUNTY POLICY OF EQUITY: INAPPROPRIATE CONDUCT TOWARD OTHERS

Inappropriate conduct toward others is any physical, verbal, or visual conduct (based on or because of any of the protected characteristics delineated in this Policy) when such conduct reasonably would be considered inappropriate for the workplace.

This provision is intended to stop inappropriate conduct based on a protected characteristic before it becomes discrimination, sexual harassment, retaliation, or harassment under the Policy.

As such, the conduct need not meet legally actionable state and/or federal standards to violate this Policy. An isolated derogatory comment, joke, racial slur, sexual innuendo, etc., **may** constitute conduct that violates this policy. Similarly, the conduct need not be unwelcome to the party against whom it is directed; if the conduct reasonably would be considered inappropriate by the County for the workplace, it **may** violate this Policy.

COUNTY POLICY OF EQUITY: SEXUAL HARASSMENT

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature which meets any one of the following criteria:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with the individual's employment or creating an intimidating, hostile, offensive, or abusive working environment, and a reasonable person subjected to the conduct would find that the harassment so altered working conditions as to make it more difficult to do the job.

COUNTY POLICY OF EQUITY: THIRD-PERSON HARASSMENT

Third-person harassment is indirect harassment of a bystander, even if the person engaging in the conduct is unaware of the presence of the bystander. When an individual engages in potentially harassing behavior, he or she assumes the risk that someone may pass by or otherwise witness the behavior. The County considers this to be the same as directing the harassment toward that individual.

COUNTY POLICY OF EQUITY: RETALIATION

This Policy prohibits retaliation. Retaliation for the purposes of this Policy is an adverse employment action against another for: 1) reporting a protected incident; 2) filing a complaint of conduct or opposing conduct that violates this Policy or related State or Federal law; or 3) participating in an investigation, administrative proceeding or otherwise exercising their rights or performing their duties under this Policy or related State or Federal law.

COUNTY POLICY OF EQUITY: DUTIES OF SUPERVISORS AND MANAGERS

Supervisors and managers have an affirmative duty to report potential violations of this Policy to the County Intake Specialist Unit (CISU). Supervisors and managers also have additional duties and responsibilities as detailed in the procedures associated with this Policy.

Supervisors and managers, for purposes of the Policy include: any member of the County workforce regardless of job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Duty of All Supervisors and Managers to Report

Supervisors and managers have an affirmative duty to report potential violations of the Policy. Supervisors and managers are required to report potential violations of the Policy to the CISU as provided below **even when a complaining or reporting party requests that no action be taken**. The supervisor or manager shall:

- Immediately notify the CISU of the incident(s) or complaint and any initial steps taken by the supervisor or manager; and
- Complete a County Policy of Equity Report/Notification form ("CPOE Report Form") with the CISU.
 - The CISU encourages the filing of CPOE Report forms via website at <https://ceop.lacounty.gov>.

Additional Duties of All Supervisors and Managers

Supervisors and managers are also responsible for:

- Being aware of, abiding by and understanding the Policy and Procedures, as well as any modifications that may be made to them;
- Actively monitoring the work environment to ensure that conduct that potentially violates the County Policy of Equity is not occurring;
- Informing County workforce members under their supervision of the types of behavior prohibited, and the County's procedures for reporting and resolving complaints arising under the Policy;
- Stopping conduct that potentially violates the Policy and taking immediate and appropriate administrative action whether or not the involved County employees are within their line of supervision; and
- If a situation requires separation of the involved parties, particular care must be taken to avoid actions that appear to punish the complaining party. (Note: Supervisors are not required to place themselves in physical harm's way to separate the parties.)

Supervisors and managers have the foregoing duties whether or not a complaint has been made.

Additional Duties of Department Heads

In addition to the duties described above, Department Heads have the following duties:

- Ensuring that the Policy is disseminated to every employee in the Department; and
- Ensuring that each County workforce member is provided access to a computer capable of utilizing the County's online CPOE reporting portal, and reasonable time to make use of the portal or file a CPOE Report form, and ensuring that blank CPOE Report forms are maintained in a prominent and accessible place in every Department Unit. It is the further duty of the Department Head to ensure that the location, availability, and purpose of the computer portal and the CPOE Report forms are made known to each department member.

COUNTY POLICY OF EQUITY: DUTY TO COOPERATE

All County employees are responsible for cooperating fully in any administrative investigation related to this Policy in accordance with County Policies, Procedures, and Guidelines (PPG) 910.

EXAMPLES OF CONDUCT THAT MAY VIOLATE THIS POLICY

Depending on the facts and circumstances, below are examples of conduct that may violate this Policy. Please be advised that this list is not exhaustive:

- Posting, sending, forwarding, soliciting or displaying in the workplace any materials, documents or images that are, including but not limited to, sexually suggestive, racist;
- Verbal conduct such as whistling and cat calls, using or making lewd or derogatory noises or making graphic comments about another's body, or participating in discussions about sexual experiences and/or desires;
- Verbal conduct such as using sexually, racially or ethnically degrading words or names, using or making racial or ethnic epithets, slurs, or jokes;
- Verbal conduct such as comments or gestures about a person's physical appearance which have a racial, sexual, disability-related, religious, age or ethnic connotation or derogatory comments about religious differences and practices;
- Physical conduct such as touching, pinching, massaging, hugging, kissing, rubbing the body or making sexual gestures;
- Visual conduct such as staring, leering, displaying or circulating sexually suggestive objects, pictures, posters, photographs, cartoons, calendars, drawings, magazines, computer images or graphics;
- Sexual advances or propositions, including repeated requests for a date;

- Adverse employment actions like discharge and/or demotion based on or because of any of the protected characteristics delineated in this Policy.

REPORTING POTENTIAL VIOLATIONS OF THIS POLICY

Any member of the County workforce who believes they have been subjected to conduct that potentially violates this Policy has the right to, without undue obstruction or interference, report the potential violation to:

- A supervisor or manager, whether or not the County workforce member is directly supervised by that person. As noted above, Supervisors and managers have an affirmative duty to report potential violations of this Policy to the CISU. Supervisors and managers also have additional duties and responsibilities as detailed in the procedures associated with this Policy.
- The County Intake Specialist Unit (CISU). The CISU may be reached as follows:
 - Website: <https://CEOP.lacounty.gov>;
 - By phone: **1-855-999-CEOP (2367)** or
 - Visiting the CISU located at: Kenneth Hahn Hall of Administration, 500 West Temple Street, Room # B-26, Los Angeles, CA 90012, during the hours of 8 am to 5 pm, Monday through Friday.

Any non-supervisory member of the County workforce who believes they have knowledge of conduct that potentially violates this Policy is also strongly encouraged to report the matter.

INVESTIGATIVE PROCESS AND CORRECTIVE ACTION

All complaints filed under the Policy will undergo a fair, complete, and timely investigation, followed by a reasonable conclusion drawn from the evidence collected. The County will take appropriate corrective action if misconduct is revealed, including, but not limited to, counseling, training, written warning, written reprimand, suspension, demotion, or discharge.

County Intake Specialist Unit

The CISU is an initial point of contact for County employees who wish to report a potential violation of the Policy. County employees are not required to identify themselves when contacting the CISU. The CISU also functions as a specialized resource for all County employees concerning the CPOE and these Procedures. The CISU shall respond to inquiries, including anonymous inquiries, about the Policy and Procedures and provide information to County employees about, among other things, their rights and responsibilities and complaint and investigation procedures concerning administrative equity matters. If a caller provides enough information to indicate a potential violation of the Policy, the CISU shall complete the CPOE Report Form and inform the caller of this fact.

The CISU shall be responsible for conducting an initial investigation of the CPOE Report Form/complaint to determine the appropriate course of action based on the designations below:

- "A" designation indicates that, based on the initial intake investigation, it is determined that there has been/is a potential violation of the County Policy of Equity, which rises to a level requiring a further investigation by the County Equity Investigations Unit (CEIU);
- "B" designation indicates that, based upon the initial intake investigation, the County Intake Specialist Unit (CISU) has determined that although the situation may involve, or appear to involve, an equity issue, the situation does not rise to the level of a potential violation of the County Policy of Equity;
- "C" designation indicates that, based upon the initial intake investigation, the CISU has determined that there is no equity issue involved;
- "E" designation indicates that the initial intake investigation reveals that a discrimination, harassment, and/or retaliation complaint was received by County from an external agency, such as the California Department of Fair Employment and Housing (DFEH), and/or from the Federal Equal Employment Opportunity Commission (EEOC); and
- "N" designation indicates a non-County involved incident.

The CISU may contact the complainant during the course of the investigation if there is a reasonable basis to believe retaliation is occurring. The CISU shall make prompt notification to the appropriate parties if an issue of retaliation is revealed.

The County Equity Investigations Unit

The County Equity Investigations Unit (CEIU) is responsible for promptly, fully and fairly investigating CPOE Report Forms/complaints of conduct that potentially violate the Policy or Procedures. CEIU investigations shall be as confidential as reasonably possible, and consistent with the County's obligation to conduct a full, fair and impartial investigation. The completed investigation is submitted to the County Equity Oversight Panel (CEOP) for review.

The County Equity Oversight Panel

The CEOP is an independent oversight body which, in accordance with the procedures described in this section, shall have authority and be responsible for reviewing CEIU investigations and making recommendations to County Department Heads concerning the disposition and discipline recommended. The CEOP shall meet as needed to discuss and review each CEIU investigation.

The review process shall consist of the following steps:

The CEOP shall review each CEIU investigation and have the opportunity to question the CEIU investigator(s) who handled the investigation. The involved Subject's Department Head or supervising chain of command shall attend the briefing. After the briefing, the CEOP shall recommend appropriate dispositions and discipline, if discipline is warranted.

- The CEOP shall meet to read, review and discuss each CEIU investigation;
- In all cases, the CEOP may direct the CEIU to conduct further investigation. If further investigation is directed, another briefing shall be held in accordance with this section after the investigation; and
- The Executive Director of the CEOP shall communicate the Panel's recommendations to the involved Department. When required, the involved Department shall issue all required notifications to the Subject or, where appropriate, inform the parties to the complaint that the complaint was substantiated, unsubstantiated, or inconclusive.

DUE PROCESS, GRIEVANCE AND APPEAL RIGHTS

County Employee Rights

All applicable County employee due process, grievance and appeal rights remain intact under this Policy and Procedures.

Represented County employees may grieve disciplinary actions according to the terms of applicable memoranda of understanding ("MOU") negotiated by the Department and the union representing said members. As such, these MOUs may require separate or additional procedures according to their respective terms.

Appeals To Civil Service Commission

County Employees may also appeal final determinations of discipline to the Civil Service Commission in accordance with the Civil Service Rules. The Department shall notify the Executive Director of the County's Equity Oversight Panel of a settled Civil Service Commission case.

ADDITIONAL DEPARTMENTAL DUTIES

Departments must provide timely status notifications related to all disciplinary County Equity Oversight Panel recommendations, to enhance accountability and oversight of the Panel recommendations process. Specifically, Departments shall provide regular status updates to the Executive Director of the CEOP (EDCEOP) regarding:

- Disciplinary action imposed, as recommended by the Panel (along with date of imposition to monitor timeliness of the disciplinary process);

- Decisions not to take disciplinary action or to take a lesser form of corrective action than that recommended by the Panel;
 - Note: All Department Heads shall promptly communicate, in writing, to the EDCEOP, the factual basis for any decision not to follow the recommendations of the County Equity Oversight Panel.
- Alterations to Panel-recommended disciplinary action taken, as a result of, but not limited to, Skelly proceedings, appeals processes (including Civil Service proceedings), and arbitrations.

Information collected regarding adherence to County Equity Oversight Panel recommendations may be reported to County Counsel and/or the Board of Supervisors.

EXTERNAL COMPLAINT MONITORING

All members of the County workforce may also contact the California Department of Fair Employment and Housing (DFEH) by calling (800) 884-1684 or visiting their website at www.dfeh.ca.gov; and/or may contact the U.S. Equal Employment Opportunity Commission (EEOC) by calling (213) 894-1000 or (800) 669-4000 or visiting their website at www.eeoc.gov.

The CISU shall receive and process all external discrimination, harassment, and/or retaliation complaints. A Department in receipt of an external discrimination, harassment and/or retaliation complaint shall forward the complaint to the CISU for processing. Where appropriate, the CISU will forward the complaint to the County's Equity Investigations Unit (CEIU) for investigation and any required contact, communication and/or closure with the involved external entity.

CONFIDENTIALITY

The County shall maintain all complaint-related information in confidence to the extent possible given the obligation to conduct a full and fair investigation and to the extent permitted by law. For more information concerning confidentiality, County workforce members should contact the CISU.

RESPONSIBLE DEPARTMENT

Executive Office of the Board of Supervisors

County Department of Human Resources

DATE ISSUED/SUNSET DATE

Issue Date: July 1, 2011

Sunset Date: July 1, 2015

Issue Date: July 16, 2015

Sunset Date: July 1, 2019

Review Date: June 6, 2017

Sunset Date: July 1, 2019

Sunset Date: July 1, 2021